



September 20, 2002

EPA Comments on Park City's DRAFT EMS dated August 21, 2002

1. Section 2.0, 2<sup>nd</sup> through 4th paragraphs

From an EPA perspective, these paragraphs are biased and give only a one-sided summary of events in the 1980s and the situation at Prospector. For instance, you selectively quote Mr. Duprey's letters to highlight only items that are supportive of Park City's position, and leave out details of Mr. Duprey's direct recommendations to Park City, some of which were not followed by PCMC. I suggest something a little more neutral:

"The proposal to list the Site on the NPL generated a great deal of controversy. PCMC and most Park City residents were opposed to NPL listing, while EPA maintained the site should be listed. Park City believed the situation at Prospector presented only minimal risks and could be remedied most effectively with local actions, and began capping vacant properties in 1985. Park City also sought congressional intervention to ensure the site was not listed on the NPL. As a result of this intervention, a line item was included in the 1986 SARA amendments (some changes in the Superfund law) which removed the site from consideration for the NPL and precluded future proposal to the NPL unless significant new information was discovered. To allay the controversy and seek consensus-based technical information regarding the situation at Prospector, PCMC, EPA, and UDEQ developed a series of scientific studies that focused on air, water, and health. While these studies were being conducted, PCMC also began developing a local ordinance to ensure effective capping of the area. These actions culminated in 1988 with two EPA letters giving qualified approval of Park City's proposal for a local ordinance (included at Tab 1) and the subsequent enacting of the ordinance by Park City"

In general, the Landscaping and Maintenance of Soil Cover requirements called for...(omitted for brevity)....and contain underlying mine-related material. The general objective of these measures was to isolate potentially contaminated material from the surface and to minimize direct contact. Figure 1 represents the Expanded and Original Soils Ordinance Boundary within Park City.

Over the years, USEPA has been reluctant to fully accept the PCMC Ordinance Strategy, though EPA has consistently given qualified approval to the approach. EPA has kept the issue under review, due primarily to concerns with the long-term implementability of the Ordinance and a lack of strong supporting data to validate the effectiveness of the Ordinance. However, in a cooperative effort, PCMC, EPA and others are now seeking to allay those concerns and further strengthen the Ordinance.

2. Section 2.0, last sentence. I want to restate my caution regarding the EMS approach resulting in "archiving" the Silver Creek Site (Prospector) from CERCLIS - a stated goal of the Work Group. In essence, I think the EMS could put to rest any direct concerns with the Ordinance and it's implementation (which is most important to EPA), but it may not get us the "hard data" we need to archive the site - at least directly in the short-term. Nothing in the proposal directly addresses EPA's often stated concern about "ensuring" or "measuring" the effectiveness of the Ordinance, which is key to CERCLIS archival. My fear is that unless we address that issue somehow, someone will have to revisit this sometime in the future because the administrative door is left open. Mayor William's comments in the paper seem to reflect a belief that if enough people get their children's blood lead tested voluntarily, that we will have a de facto blood lead study and we could then archive the site. Most likely not. First, it probably won't give us EPA any more comfort that we have now - it will be anecdotal and as I've said many times, we *already* know there most likely isn't a problem based on the anecdotal information we've compiled to date. Second, doubtful we'll get that much data anyway. Another potential way to address this concern is through soil sampling, which I've discussed below.

3. General Comment. As written, the document seems to paint the picture that the Ordinance is

perfect and has no flaws, at least in the eyes of PCMC. This begs the question "why do this work at all?" As you indicated, the key to making this system work is getting buy-in from residents - this document is more likely to elicit a "who cares." In this regard, the document lacks a clear set of objectives or a recounting of specific issues which the EMS, or portions of the EMS (e.g. Education and Public Outreach), are intended to address. "Further strengthening the Ordinance" is very vague as an objective. After Section 2.0 would a good place to add a section which states clearly what issues you are trying to address. Why do you need to strengthen the Ordinance? What issues/shortcomings are you aware of you would like to improve upon? What issues of EPA would you like to address? Subsequent sections could then build upon that in an "issue-response" approach, so that it is clear what each action you propose is intended to accomplish, and clearly show that in some cases there are many overlapping things addressing a particular issue. In the past, I have clearly laid out EPA's concerns in previous written communications and I would like to know exactly how each of those concerns is being addressed by this EMS - only then could EPA and other members of the group decide if those concerns are being adequately addressed.

I suggest structuring such a section by (1) describing in detail what risks the Ordinance is supposed to address (e.g. incidental lead ingestion), (2) discussing how the Ordinance is envisioned to work [e.g. cutting the pathway with the cap & providing tools (e.g. education/enforcement) to ensure it stays that way], (3) identifying the issues/shortcomings with the current approach (either in implementation or in measurement), and (4) finally describing how the EMS will address those issues, and what will be different.

Further, Section 2.0 contains some "assumptions" which could use some basis. For instance:

- "The city has also devoted a great deal of resources.... resulted in the concept being increasingly effective at managing and enforcing the Ordinance." How? By what measures?
- "With the success of the program...has expanded....to have had historical mining activity." Again, how is "success" measured?

4. Section 3.0. Environmental Policy. No real comments on the actual text - it is PCMC's policy. However, I think to be fair, and less misleading, we should include similar statements by EPA and UDEQ. For instance, EPA and UDEQ want to ensure people understand that the blood lead registry concept is not fool-proof, PCMC's position notwithstanding, and that its existence alone does not ensure problems are found.

5. Section 4.2 . An annual lot risk assessment of a portion of lots is a great idea, and central to ensuring the Ordinance stays implemented over time. In fact, it could be scaled back in time frequency in the future if results warrant - 1 year reviews, then 5 years, then 25. Or something like that. But no matter what is done, EPA feels strongly that soil *sampling* should be a mandated part of it, especially given the fact we aren't doing a blood lead study. While I agree a great deal of info will be collected via a direct visual inspection, you simply cannot adequately assess "cap integrity" or "focus on risk exposures" without either (1) measuring the receptor (blood lead, which we aren't doing), measuring the pathway to ensure it is and remains blocked (which soil sampling would do to a much higher degree than a visual inspection alone, and again we could back off on frequency based on results over time), or (3) somehow modeling exposures. Bottom line, for EPA to support this, there has to be some actual testing instead of just a visual inspection - there are too many situations that cannot be seen with visual inspection alone. The document as written really changes very little from the current situation. In this regard, Park City seems convinced the Ordinance works exactly as intended, but seems averse to collect any type of hard data to support this. If we are not doing a blood lead study (which I continue to believe was the surest route to verify the Ordinance is effective), I would suggest soil sampling (in conjunction with the other inspections you discuss, which are also very important) to ensure the existence and depth of the cap as part of an annual assessment - maybe intensive at first (maybe include speciation, which may help us assess bioavailability), but less so over time based on results. The upside of this to Park City is it may provide data to support archival from CERCLIS. Downside is we may find that the pathway isn't as cut off as we thought but still will not really know what that means for receptors (e.g. this approach is not as likely to generate a clear

negative as a blood lead study). And again, I think some short-term sacrifice to collect hard data could negate the need for long-term work and reduce the work-load over time.

6. Section 5.0. EPA notes that the PPHOA is strictly a voluntary organization, and does not include other areas of the Ordinance area. Also, EPA has some strong objections to the current version of the PPHOA lead handout (Tab 12) which were expressed in writing to the PPHOA and PCMC and will not support inclusion of the document without significant revisions.

7. Section 5.0: Any education efforts should be built into normal infrastructure, not a one-time deal. Resource intensive short-term efforts yield only short-term benefits and are hard to maintain. Things like changing the real estate disclosure form (which was done) are semi-permanent and institutionalized and thus are more important to me than a one time letter to Prospector residents. Bottom line, things that are institutionalized, even if they aren't as informative, are worth more to EPA (and easier to implement over time) than something that may be more informative but will be lost quickly over time.